

Senate Bill No. 728

CHAPTER 14

An act to amend Section 22901.1 of, to add Section 22901.3 to, and to add and repeal Section 22901.2 of, the Education Code, and to amend Sections 20677, 20683, and 20687 of, to add Section 20677.4 to, and to add and repeal Section 20683.3 of, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 21, 2002. Filed with
Secretary of State March 21, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 728, Machado. State employees: memoranda of understanding.

(1) Existing law provides that if any provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act.

This bill would approve provisions that require the expenditure of funds of memoranda of understanding entered into between the state employer and State Bargaining Units 1, 3, 4, 11, 15, and 21, the California State Employees Association, and would provide that the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

This bill would provide that provisions of the memoranda of understanding approved by this bill that require the expenditure of funds shall not take effect unless funds for these provisions are specifically appropriated by the Legislature, and would provide that if funds for these provisions are not specifically appropriated by the Legislature, the state employer, and the affected employee organization shall meet and confer to renegotiate the affected provisions.

(2) Existing provisions of the Teachers' Retirement Law, operative until July 1, 2003, establish the normal rate of contribution for members of the Defined Benefit Program in State Bargaining Units 10, 12, 16, 18, and 19, and other specified members, and require these members to contribute to the retirement fund 5¹/₂% of creditable compensation from



August 31, 2001, to June 30, 2002, and 3% of the creditable compensation from July 1, 2002, to June 30, 2003.

This bill would approve provisions that require 25% of the amount contributed by a member to the retirement fund, as specified above, to be credited to the member's Defined Benefit Supplement account. The bill would also make conforming changes.

(3) Existing law, the Teachers' Retirement Law, establishes the normal rate of contribution to the retirement fund for specified members based on bargaining unit.

This bill, operative until July 1, 2003, would establish the contribution rate for members of the Defined Benefit Program in State Bargaining Unit 3 or 21, and would require these members, from January 1, 2002, to June 30, 2002, to contribute to the retirement fund an amount equal to 5½% of the member's creditable compensation, and to contribute 3% of creditable compensation to the retirement fund from July 1, 2002, to June 30, 2003. In addition, 25% of the amount contributed would be credited to the member's Defined Benefit Supplement account.

(4) The Public Employees' Retirement Law provides that the contribution rate for a state miscellaneous member whose service is not included in the federal system is 6% of the compensation in excess of \$317 per month for service rendered on or after July 1, 1976. Existing law also provides that the contribution rate for a state miscellaneous member whose service has been included in the federal system is 5% of compensation in excess of \$513 per month for service rendered on or after July 1, 1976.

This bill would amend the above provisions to instead refer to a state miscellaneous member employed by the California State University, the University, the legislative, or the judicial branch. The bill would also make corresponding changes.

(5) Existing law, the Public Employees' Retirement Law, also provides the normal rate of contribution for a state miscellaneous or industrial member, subject to certain criteria.

This bill would revise and recast the above provisions to provide that those procedures would be subject to modification pursuant to the terms of a memorandum of understanding between the state employer and those bargaining units. The bill would also permit the Department of Personnel Administration to set a different contribution rate for members who are not defined as state employees, and for officers or employees of the executive branch who are not members of the civil service.

(6) The Public Employees' Retirement Law provides that for specified state members the normal rate of contribution is 6% of compensation in excess of \$317 per month for a member whose service



is not included in the federal system, or in excess of \$513 for one whose service is included in the federal system.

This bill would permit the Director of the Department of Personnel Administration to establish the normal rate of contribution for members who do not fall within the definition of “state employee,” as specified, and for officers or employees of the executive branch of state government who are not members of the civil service.

(7) Existing law establishes the normal rate of contribution to the Public Employees Retirement System for specified state safety members.

This bill would provide that the normal rate of contribution for specified state safety members in State Bargaining Units 1, 3, 4, 11, or 15 from January 1, 2002, to June 30, 2002, and 1% of compensation from July 1, 2002, to June 30, 2003, as specified.

(8) Existing law also establishes the contribution rate for specified state peace officer/firefighter members and sets this figure at 8% of compensation in excess of \$238 per month.

This bill would permit the Director of the Department of Personnel Administration to establish the normal rate of contribution for members who do not fall within the definition of “state employee” and officers or employees of the executive branch of the state government who are not members of the civil service.

(9) Existing provisions of the Budget Act of 2001 appropriate specified amounts from the General Fund, unallocated special funds, and unallocated nongovernmental cost funds for the augmentation of state employee compensation.

This bill would appropriate an additional \$35,486,000, as scheduled, from those funds in augmentation of specified items of the Budget Act of 2001 for state employee compensation.

(10) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve agreements pursuant to Section 3517 of the Government Code entered into by the state employer and Bargaining Unit 1, California State Employees Association, Administrative, Financial and Staff Services; Bargaining Unit 3, California State Employees Association, Education and Library; Bargaining Unit 4, California State Employees Association, Office and Allied; Bargaining Unit 11, California State Employees Association, Engineering and



Scientific Technicians; Bargaining Unit 15, California State Employees Association, Allied Services; and Bargaining Unit 21, California State Employees Association, Education Consultants and Library.

SEC. 2. The provisions of the memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the bargaining units as defined in Section 1, and that require the expenditure of funds or legislative action to permit their implementation, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the memoranda of understanding approved by Section 2 of this act that are scheduled to take effect on or after July 1, 2001, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. In the event that funds for these provisions are not specifically appropriated by the Legislature, the state employer and the affected employee organization shall meet and confer to renegotiate the affected provisions.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Section 22901.1 of the Education Code is amended to read:

22901.1. (a) Notwithstanding any provisions of Section 22901 to the contrary, the normal rate of contribution shall be the rate specified in this section for all of the following:

(1) Members of the Defined Benefit Program in State Bargaining Units 10, 12, 16, 18, and 19.

(2) Members of the Defined Benefit Program who are employed by the state and excepted from the definition of “state employee” in subdivision (c) of Section 3513 of the Government Code.

(3) Members of the Defined Benefit Program who are officers or employees of the executive branch of state government who are not members of the civil service.

(b) (1) Subject to the provisions of subdivision (d), from August 31, 2001, to June 30, 2002, inclusive, each member described in subdivision (a) shall contribute to the retirement fund an amount equivalent to 5.5 percent of the member’s creditable compensation.

(2) Subject to the provisions of subdivision (d), from July 1, 2002, to June 30, 2003, inclusive, each member described in subdivision (a) shall contribute to the retirement fund an amount equivalent to 3 percent of the member’s creditable compensation.



(3) Notwithstanding Section 22905, 25 percent of the amount contributed by a member pursuant to this section shall be credited to the member's Defined Benefit Supplement account pursuant to Section 25004.

(c) This section does not apply to members employed by the California State University or the University of California.

(d) This subdivision shall apply to state employees in State Bargaining Units 10, 12, 16, 18, and 19. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(e) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 22901.2 is added to the Education Code, to read:

22901.2. (a) Notwithstanding any provision of Section 22901 to the contrary, the normal rate of contribution shall be the rate specified in this section for members of the Defined Benefit Program in State Bargaining Unit 3 or 21.

(b) (1) From January 1, 2002, to June 30, 2002, inclusive, each member described in subdivision (a) shall contribute to the retirement fund an amount equivalent to 5.5 percent of the member's creditable compensation.

(2) From July 1, 2002, to June 30, 2003, inclusive, each member described in subdivision (a) shall contribute to the retirement fund an amount equivalent to 3 percent of the member's creditable compensation.

(3) Notwithstanding Section 22905, 25 percent of the amount contributed by the member pursuant to this section shall be credited to the member's Defined Benefit Supplement account pursuant to Section 25004.

(c) This section does not apply to members employed by the California State University or the University of California.

(d) This subdivision shall apply to state employees in State Bargaining Unit 3 or 21. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, the memorandum of understanding shall be controlling without further legislative action,



except that if the provisions of a memorandum require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(e) This section shall become inoperative on July 1, 2003, and as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 22901.3 is added to the Education Code, to read:

22901.3. (a) Notwithstanding Section 22901, the normal rate of contribution for a “state employee,” as defined in subdivision (c) of Section 3513 of the Government Code, who is a member of the Defined Benefit Program, may be established by a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code. The memorandum of understanding shall be controlling without further legislative action, except that if the provisions of the memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(b) The Director of the Department of Personnel Administration may establish the normal rate of contribution for a state employee who is a member of the Defined Benefit Program who is excepted from the definition of “state employee” in subdivision (c) of Section 3513 of the Government Code, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of the Department of Personnel Administration but shall be no earlier than the beginning of the pay period following the date the board receives notification.

SEC. 8. Section 20677 of the Government Code is amended to read:

20677. (a) (1) The normal rate of contribution for a state miscellaneous member employed by the California State University, the University, the legislative, or the judicial branch whose service is not included in the federal system shall be 6 percent of the compensation in excess of three hundred seventeen dollars (\$317) per month paid that member for service rendered on and after July 1, 1976.

(2) The normal rate of contribution for a school member or a local miscellaneous member shall be 7 percent of the compensation paid that member for service rendered on and after June 21, 1971.

(3) Notwithstanding paragraph (2), the normal rate of contribution for a local miscellaneous member subject to Section 21354.3, 21354.4, or 21354.5 shall be 8 percent of the compensation paid that member for



service rendered on and after the date the member's contracting agency elects to be subject to that section.

(4) The normal rate of contribution as established under this subdivision for a local miscellaneous or school member whose service is included in the federal system, and whose service retirement allowance is reduced under Section 21353, 21354, 21354.1, 21354.3, 21354.4, or 21354.5 because of that inclusion, shall be reduced by one-third as applied to compensation not exceeding four hundred dollars (\$400) per month for service after the date of execution of the agreement including service in the federal system and prior to termination of the agreement with respect to the coverage group to which he or she belongs. Notwithstanding the foregoing, effective January 1, 2001, the normal rate of contribution for school members whose service is included in the federal system shall not be reduced pursuant to this paragraph as applied to compensation earned on or after that date.

(b) (1) The normal rate of contribution for a state miscellaneous member employed by the California State University, the University, the legislative, or the judicial branch whose service has been included in the federal system shall be 5 percent of compensation in excess of five hundred thirteen dollars (\$513) per month paid that member for service rendered on and after July 1, 1976.

(2) The normal rate of contribution for a state miscellaneous or industrial member employed by the California State University, the University, the legislative, or the judicial branch, who has elected to be subject to Section 21353.5 and whose service has been included in the federal system, shall be 5 percent of compensation, subject to the reduction specified in paragraph (5) of subdivision (a).

SEC. 9. Section 20677.4 is added to the Government Code, to read:

20677.4. (a) (1) The normal rate of contribution for a state miscellaneous or state industrial member whose service is not included in the federal system shall be 6 percent of the compensation in excess of three hundred seventeen dollars (\$317) per month paid to that member for service rendered on or after July 1, 1976.

(2) The normal rate of contribution for a state miscellaneous or state industrial member, who has elected to be subject to Section 21353.5 and whose service is not included in the federal system, shall be 6 percent of the member's compensation.

(3) The normal rate of contribution as established under this subdivision for a member whose service is included in the federal system, and whose service retirement allowance is reduced under Section 21354.1, because of that inclusion, shall be reduced by one-third as applied to compensation not exceeding four hundred dollars (\$400) per month for service after the date of execution of the agreement



including service in the federal system and prior to termination of the agreement with respect to the coverage group to which he or she belongs.

(b) The normal rate of contributions for a state miscellaneous or state industrial member whose service has been included in the federal system shall be 5 percent of compensation in excess of five hundred thirteen dollars (\$513) per month paid that member for service rendered on or after July 1, 1976.

(c) The normal rate of contribution for a state miscellaneous or state industrial member who is subject to Section 21076 or 21077 shall be 0 percent.

(d) A member who elected to become subject to Section 21353 solely for service rendered on or after the effective date of the election, as authorized by subdivision (c) of Section 21070 during the period between November 1, 1988, and October 31, 1989, is not required to make the contributions specified in Section 21073.

(e) A member who elects to become subject to Section 21354.1, as applicable, shall contribute at the rate specified in paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b), as determined by the member's status with the federal system, and the rate shall be applied from the first of the month following the date of the election. A member who makes the election shall also contribute for service prior to the date the contribution rate was applied, in the manner specified in Section 21073 or 21073.1, as applicable.

(f) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless and until approved by the Legislature in the annual Budget Act.

(g) The Director of the Department of Personnel Administration may establish the normal rate of contribution for a state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of the Department of Personnel Administration but shall be no earlier than the beginning of the pay period following the date the board receives notification.

SEC. 10. Section 20683 of the Government Code is amended to read:



20683. (a) For each state member subject to Section 21369 or 21369.1, the normal rate of contribution shall be 6 percent of compensation in excess of three hundred seventeen dollars (\$317) per month paid to a member whose service is not included in the federal system or in excess of five hundred thirteen dollars (\$513) for one whose service is included in the federal system. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of the memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(b) The Director of the Department of Personnel Administration may establish the normal rate of contribution for a state employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of the Department of Personnel Administration but shall be no earlier than the beginning of the pay period following the date the board receives notification.

(c) For each local safety member subject to Section 21369, the normal rate of contribution shall be 7 percent of compensation.

(d) The normal rate of contribution as established under this section for a local member whose service is included in the federal system and whose retirement allowance is reduced because of that inclusion shall be reduced by one-third as applied to compensation not exceeding four hundred dollars (\$400) per month for service rendered after the date of execution of the modification of the federal-state agreement including those services in the federal system and prior to termination of his or her coverage under the federal system.

(e) The operative date of this section with respect to a local safety member shall be the date upon which he or she becomes subject to Section 21369.

SEC. 11. Section 20683.3 is added to the Government Code, to read:

20683.3. (a) Notwithstanding any provisions of Section 20683 to the contrary, the normal rate of contribution for state safety members subject to Section 21369.1 in State Bargaining Unit 1, 3, 4, 11, or 15 shall be the rate specified in this section.

(b) (1) From January 1, 2002, to June 30, 2002, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is not included in the federal system shall be 3.5 percent of the



compensation in excess of three hundred seventeen dollars (\$317) per month paid to that member for service rendered.

(2) From July 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is not included in the federal system shall be 1 percent of the compensation in excess of three hundred seventeen dollars (\$317) per month paid to that member for service rendered.

(3) From January 1, 2002, to June 30, 2002, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is included in the federal system shall be 3.5 percent of the compensation in excess of five hundred thirteen dollars (\$513) per month paid that member for service rendered.

(4) From July 1, 2002, to June 30, 2003, inclusive, the normal rate of contribution for a member described in subdivision (a) whose service is included in the federal system shall be 1 percent of the compensation in excess of five hundred thirteen dollars (\$513) per month paid to that member for service rendered.

(c) This section does not apply to members employed by the California State University or the University of California.

(d) This section shall apply to state employees in State Bargaining Units 1, 3, 4, 11, or 15. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(e) This section shall become inoperative on July 1, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends the date on which it becomes inoperative and is repealed.

SEC. 12. Section 20687 of the Government Code is amended to read:

20687. (a) The normal rate of contribution for state peace officer/firefighter members subject to Section 21363, 21363.1, or 21363.3 shall be 8 percent of the compensation in excess of two hundred thirty-eight dollars (\$238) per month paid to those members.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those



provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) The Director of the Department of Personnel Administration may establish the normal rate of contribution for a state employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of the Department of Personnel Administration but shall be no earlier than the beginning of the pay period following the date the board receives notification.

SEC. 13. The sum of thirty-five million four hundred eighty-six thousand dollars (\$35,486,000) is hereby appointed for expenditure in the 2001–02 fiscal year in augmentation of, and for the purpose of state employee compensations as provided in, Items 9800-001-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2001 (Chapter 106 of the Statutes of 2001) in accordance to the following schedule:

(a) Seventeen million two hundred ninety-seven thousand dollars (\$17,297,000) from the General Fund in augmentation of Item 9800-001-0001.

(b) Eleven million six hundred forty-one thousand dollars (\$11,641,000) from unallocated special funds in augmentation of Item 9800-001-0494.

(c) Six million five hundred forty-eight thousand dollars (\$6,548,000) from other unallocated nongovernmental cost funds in augmentation of Item 9800-001-0988.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2001–2002 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

